

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

ACANTHA LLC,

Plaintiff,

v.

DEPUY SYNTHES SALES, INC. and
DEPUY SYNTHES PRODUCTS, INC.,

Defendants.

Civil Action No. 1:15-cv-01257

Judge William C. Griesbach

**DEFENDANTS' RENEWED MOTION FOR JUDGMENT AS A MATTER
OF LAW UNDER RULE 50(b) AND MOTION BY DISMISSED-CLAIMS
DEFENDANTS TO AMEND THE JUDGMENT UNDER RULE 59(e)
TO DISMISS ALL CLAIMS AGAINST THEM WITH PREJUDICE**

Pursuant to Rule 50(b) of the Federal Rules of Civil Procedure, DePuy Synthes Sales, Inc. and DePuy Synthes Products, Inc. (collectively, the “Defendants”) respectfully renew their Rule 50(a) motions for judgment as a matter of law (“JMOL”) (Dkt. 283; Dkt. 291) on grounds that (1) the Accused Products do not meet all the limitations of any asserted claim of U.S. Patent No. RE43,008 (“the ’008 patent”), either literally or by equivalence; (2) Defendants have not willfully infringed the ’008 patent; (3) Defendants have not induced others to infringe the ’008 patent; and (4) U.S. Patent No. 6,258,089 (“Campbell”) is prior art to the ’008 patent. Pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, Defendants further move the Court to vacate or amend the damages award by deducting the portion of the award attributable to non-infringing sales of Zero-P VA or Vectra to the extent the Court grants Defendants’ present motion.

Defendants DePuy Synthes, Inc., Synthes, Inc., Synthes USA, LLC, DePuy Orthopaedics, Inc., DePuy Spine, LLC, and Johnson & Johnson, Inc. (collectively, the “Dismissed-Claims Defendants”) respectfully move the Court to amend the judgment pursuant to the parties’ Joint

Stipulation of Dismissal. (Dkt. 277.) The judgment should be amended to dismiss all claims against the Dismissed-Claims Defendants with prejudice, as provided in the Joint Stipulation of Dismissal.

For the reasons set forth in the Memorandum in Support of this Motion, Defendants move this Court for an order (1) granting JMOL that they do not infringe or willfully infringe any of the Asserted Claims and that Campbell is prior art to the '008 patent, and (2) vacating or amending the judgment to the extent the Court grants JMOL. Also for the reasons set forth in the Memorandum in Support of this Motion, Dismissed-Claims Defendants move this Court for an order amending the judgment to dismiss all claims against them with prejudice.

Dated: September 21, 2018

Respectfully submitted,

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